

BEFORE THE
Federal Communications Commission RECEIVED

WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Implementation of Section 309(j)
of the Communications Act)

Competitive Bidding)

PP Docket No. 93-253

To: The Commission

**REPLY COMMENTS OF
ARCH COMMUNICATIONS GROUP, INC.**

Arch Communications Group, Inc. ("Arch") hereby responds to the comments submitted in response to the Notice of Proposed Rulemaking (the "Notice")^{1/} in the above-captioned proceeding. In reply, the following is respectfully shown:

I. Preliminary Statement

1. The comments filed by Arch on November 10, 1993 in this proceeding (the "Arch Comments") devoted much consideration to the auction procedures for narrowband PCS channels.^{2/} Arch expressed concern that the Notice did not adequately consider the

^{1/} FCC 93-455, released October 12, 1993.

^{2/} Arch has actively participated in ET Docket No. 92-100 respecting narrowband PCS due to Arch's recognition that this allocation will support the next generation of messaging services which Arch is planning to provide.

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unique aspects of the narrowband allocation that justify an auction procedure at variance from that for broadband PCS.^{3/} The comments filed in the proceeding reinforce Arch's concern. Although nearly 200 comments were filed, only a handful devote considerable attention to the narrowband allocation.^{4/}

2. Notably, those who specifically commented on narrowband recognize certain distinguishing features of that allocation and have offered some consistent suggestions on how the narrowband bidding should proceed. For example, there is general agreement that the application filing procedures for the narrowband channels should be streamlined to reduce unnecessary paperwork.^{5/} There also is consensus that equivalently paired narrowband channels in a common market are fungible, and should be auctioned off simultaneously in order to allow a market price to settle across the entire lot.^{6/} Most narrowband commenters also support an open ascending bidding mechanism^{7/} proceeding

^{3/} Arch Comments, p.11.

^{4/} See, e.g., Comments of Telocator, Paging Network, Inc. ("PageNet"), PageMart, PacTel Paging and Midcontinent Media.

^{5/} PacTel and MidContinent Comments, p. 11; Telocator Comments, pp. 12-13.

^{6/} Telocator Comments, p. 20; PageMart Comments, pp. 11-13; PageNet Comments, Note 30; PacTel and Midcontinent Comments, pp. 15-16.

^{7/} Comments of Arch, pp. 11-12; Telocator, p. 3; PageNet, pp. 7-16; PacTel and Midcontinent, pp. 15-16.

from the largest to the smallest market areas and from the largest to the smallest bandwidths.^{8/}

3. In other equally important areas, however, the comments are less consistent, and could result in an inefficient allocation mechanism for narrowband PCS if heeded by the Commission. This reply identifies those comments which, if followed, would in Arch's view have unintended adverse consequences on the narrowband PCS market.

II. Broadband and Wideband Auctions Should Proceed in a Common Time Frame

4. From the outset of the initiation of the PCS allocation proceeding, Arch has advocated the simultaneous adoption of wideband and narrowband rules so that the two allocations could proceed toward licensing at the same time.^{9/} This position derived from Arch's concern that parties whose principal interest is wideband PCS would nonetheless seek narrowband licenses if this happened to be the first PCS spectrum to be made available for application.^{10/} Some of the comments in

^{8/} Comments of Arch, pp. 12-13; Telocator, p. 20; PageMart, pp. 20-23; PageNet, pp. 17-18; Pactel and Midcontinent, 16-17.

^{9/} See Arch Comments in ET Docket No. 91-100 filed November 9, 1992 at p. 3.

^{10/} The treatment of the narrowband portion of the PCS proceeding in a First Report and Order was a matter of some concern to Arch on this point. However, it appeared that the Congressional action of ordering auctions was likely to cause narrowband and wideband to be returned to common licensing tracks since the adoption of auctions procedures became the new pacing item.

the auction proceeding serve to resurrect Arch's earlier expressed concern.

5. AT&T and McCaw Cellular suggest that the narrowband allocation be used by the Commission to practice with competitive bidding techniques before commencing to auction off wideband PCS spectrum.^{11/} Arch disagrees. The narrowband allocation is too important to be utilized for experimentation. And, if the Commission uses narrowband licensing as a "dry run", major industry participants whose real interest is wideband will be encouraged to "practice" their auction strategies in this band. The result will be a severe reduction in licensing opportunities for those, like Arch, whose principal interests at this time is in the development and provision of narrowband services.

6. Moreover, there are key differences between broadband PCS and narrowband PCS that argue in favor of distinct procedures. There are no nationwide broadband channels available which means the Commission must adopt auction procedures that allow geographic areas to be aggregated easily. In contrast, narrowband applicants have a choice of nationwide, regional (i.e. MTA) or local (ie. BTA) areas, making geographic aggregation less important. And, wideband channels, even those of equivalent bandwidth in common market areas, are not necessarily fungible because of significant potential differences in the number of

^{11/} AT&T Comments, pp. 10-11; McCaw Comments, pp. p. 2. As the Commission is aware, AT&T is in the process of acquiring McCaw's cellular operations.

incumbents who must be moved. In contrast, narrowband channels are clear, making different channels fully substitutable. As a result, the need for a competitive bidding mechanism that allows simultaneous auctions of fungible channels is much more important for narrowband.

7. On balance, the Commission should reject the suggestion to use narrowband auctions as a guinea pig for wideband, particularly since the suggestion comes from companies with vested cellular interests who may not have all that great an interest in seeing the competing technologies of wideband PCS get to the marketplace expeditiously.

III. Narrowband Procedures Must Promote Small Business Participation

8. The Arch Comments advocated according small businesses special preferences in the narrowband proceeding in order to fulfill the statutory mandate to adopt licensing procedures that ensure the meaningful participation of "Designated Entities" (a term that includes small business).^{12/} This position was based on the concern that the failure to adopt adequate preferences for small businesses could result in all of the narrowband licenses going to a few companies with the deepest pockets.

9. The comments of PageMart echo Arch's concern. PageMart correctly notes that a single party is allowed to garner

^{12/} Arch Comments, p. 19-21.

up to three symmetrically paired narrowband channels in a territory (ie. 300 kHz). This means that the narrowband market could become dominated by a very small group of service providers who are willing and able to outbid all potential competitors. The result could be an oligopolistic market.^{13/}

10. PageMart advocates the use of sealed bids to mitigate this result, an approach that Arch does not favor.^{14/} The better approach, in Arch's view, would be to set aside certain narrowband channels for Designated Entities as was done in the broadband allocation.^{15/} This, coupled with bidding credits, preferred payment terms, tax certificates and other preferences^{16/} offers some promise that small businesses will participate in the provision of narrowband PCS services.^{17/}

^{13/} PageMart Comments, pp. 8-10.

^{14/} Arch favors an open bidding system that will reduce the elements of luck and surprise.

^{15/} In the wideband allocation, 30 Mhz of spectrum out of 120 Mhz in the licensed PCS band were set aside, or 25%. An equivalent percentage of the narrowband spectrum should be set-aside as well.

^{16/} The comments in the proceeding contain a whole host of useful suggestions that would serve to promote the participation of designated entities in the provision of narrowband PCS services. See, e.g., Comments of Alliance for Fairness and Viable Opportunity, Association of Independent Designated Entities, Council of 100, Lightcom International, Venus Wireless, Inc. Arch sees no reason that these preference mechanisms should not be equally applied to narrowband and broadband licensing.

^{17/} Not surprisingly, many of the largest providers of paging services do not favor preferences for designated entities in the narrowband PCS allocation. See, e.g., Comments of PageNet, p. 25; Comments of Pactel and Midcontinent, pp. 30-
(continued...)

11. The Commission also should be wary of suggestions by large communications companies who seek to raise the economic barriers to participation. For example, PageNet would have winning bidders be required to make a lump sum payment of the entire bid price on the day of the auction.^{17/} PageNet also would change the formula and require upfront payments of \$0.04 /MHz/pop, twice the level recommended by the Commission.^{18/} In Arch's view, these proposals would only serve to further enhance the already substantial advantage that deep pocket companies have in the auction process. Instead, the Commission should be acting to facilitate participation by small businesses.^{20/}

^{17/} (...continued)

32. Arch on the other hand believes that preferences are necessary to meet the Congressional objective.

^{18/} PageNet Comments, pp. 22-25.

^{19/} PageNet Comments, pp. 38-42. As Arch noted, the \$0.02 formula could have required an applicant for the maximum amount of spectrum nationwide to make an upfront payment of \$1,500,000. PageNet's formula would double this amount.

^{20/} However, the Commission may wish to adopt Telocator's suggestion of a minimum deposit of \$25,000 for a narrowband channel in order to deter speculators from participating in the auctions. See Telocator Comments, pp. 38-40.

IV. Conclusion

12. The foregoing premises having been duly considered, Arch respectfully requests that the Commission adopt narrowband PCS licensing rules consistent with the Arch Comments and this reply.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I, Yvette Omar, hereby certify that I have this 30th day of November, 1993, caused copies of the foregoing to be delivered by hand, courier charges prepaid, to the following:

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